

Wetlands Advisory Task Force

MINUTES

NOVEMBER 8, 2011

1:00PM

701 NW 1 COURT
2ND FLOOR TRAINING ROOM

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| MEETING CALLED TO ORDER | By Chair at 1:08pm | | |
| MEMBER ATTENDEES | Present: Patricia Baloyra Manuel Echezarreta Jose K Fuentes Jose M. Gonzalez James F. Murley Alice Pena | Absent: Stephen A Sauls | Present Non Voting: Jennifer Smith, FDEP SE District Ray Scott, FDAC – Office of Agricultural Water Policy Ron Peekstok, SFWMD |

Agenda topics

WELCOME AND ANNOUNCEMENTS

LEE HEFTY, ASSISTANT DIRECTOR, PERA

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| DISCUSSION | Chair recognized Mr. Lee Hefty for opening announcements. Mr. Hefty opened the meeting with announcements which included a review of the information packet provided to the members, reminders that the meetings are recorded and available upon request and that their parking costs are reimbursable upon request. Mr. Hefty also updated the members on the status of action items from previous meetings. |
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AGENDA REVIEW

JAMES F. MURLEY – CHAIR – WATF

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| DISCUSSION | Chair James Murley opened discussion for changes or additions to the current agenda provided. Motion was made by Ms. Pena to amend the agenda beginning with Item 9 to provide Ms. Pena the opportunity to present to the Task Force. Motion to set the agenda as indicated was made by Jose Gonzalez and seconded by Jose Fuentes. Motion passed with unanimous vote. |
| CONCLUSIONS | Agenda amended as discussed |

APPROVAL OF MINUTES FROM OCTOBER 19, 2011 MEETING

JAMES F. MURLEY – CHAIR – WATF

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| DISCUSSION | The Chair advised members that draft minutes were presented to them and are now open for corrections/approval. Hearing no corrections, motion was made to accept by Jose Gonzalez, and was seconded by Jose K. Fuentes. The motion passed by unanimous vote. |
| CONCLUSIONS | Minutes of October 19, 2011 meeting approved |

PRESENTATION: PROGRAM TIMELINES AND CHAPTER 24 PROCESS IMPROVEMENT CONCEPTS

MATTHEW DAVIS, DIVISION CHIEF
PERMITTING, ENVIRONMENT AND REGULATORY AFFAIRS

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| DISCUSSION | The Chair recognized Mr. Matthew Davis to present. Mr. Davis provided a presentation on the Wetlands permitting program response timelines and goals and Chapter 24 process improvement concepts that are currently in process by PERA Discussion with members |
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PRESENTATION: COASTAL WETLAND PERMITTING PROCESS

MATTHEW DAVIS, DIVISION CHIEF
PERMITTING, ENVIRONMENT AND REGULATORY AFFAIRS

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| DISCUSSION | The Chair recognized Mr. Davis to present Mr. Davis provided a presentation on the Coastal Permitting Program and processes under Chapter 24 of the Code. The presentation included discussion on Class I permits, how coastal wetlands are defined through vegetation type (list of halophytic vegetation) and the dredge and fill criteria. Discussion with members |
| CONCLUSIONS | Further discussion on the definition for the dredge and fill criteria |

PRESENTATION: OPTIONS TO CONSIDER FOR PERMITTING AGRICULTURAL USES IN WETLANDS

MATTHEW DAVIS, DIVISION CHIEF
PERMITTING, ENVIRONMENT AND REGULATORY AFFAIRS

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| DISCUSSION | <p>The Chair recognized Mr. Davis to present.</p> <p>Mr. Davis provided a presentation on PERA proposed considerations for permitting of agricultural uses in wetlands. This presentation covered what has been done so far through working with the agricultural industry and two options for consideration:</p> <ul style="list-style-type: none">• Reduced mitigation for agriculture - Mitigation through a donation to a conservation land acquisition program – similar to “Preservation” in UMAM• Time lag mitigation for agriculture - Doing an initial assessment of the property, determining the value of the wetlands and issuing a permit for a specific time period with mitigation being paid at the beginning of the period for the time lag portion only at a rate of about 3% a year. <p>Mr. Davis also discussed with the members additional considerations for streamlining wetlands permitting for agricultural uses and possible limitations.</p> <p>Discussion with members</p> |
| ACTION ITEMS | <ul style="list-style-type: none">• Presentation by Charles LaPradd and Ray Scott for the next meeting – what can be pieced together to set up guidelines for following of a property, what is it, what activity is considered and what starts the clock and for how long?• Recommendation for further discussion – Expand on the idea of a 3rd option – establish a score for property that stays on a deed restriction or chain of title. If the use changes then they have to pay the score value and other related costs. |

PRESENTATION: MDC WETLANDS ENFORCEMENT STRATEGY AND PROCESSES

DONNA GORDON, SECTION CHIEF
PERMITTING, ENVIRONMENT AND REGULATORY AFFAIRS

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| DISCUSSION | <p>The Chair recognized Ms. Donna Gordon to present.</p> <p>Ms. Gordon, staff from PERA, provided a presentation on the County’s wetlands enforcement strategy and processes which included how violations are identified, the Departmental response, the progressive enforcement process and administrative remedies. Ms. Gordon also gave a brief overview of the results of the Department’s enforcement of wetlands permitting requirements from January 2001 to October 2011.</p> <p>Discussion with members</p> |
| CONCLUSION | <ul style="list-style-type: none">• Future discussion: Mulch removal |

PRESENTATION: DUE PROCESS FOR APPEALS

TOM ROBERTSON, ASSISTANT COUNTY ATTORNEY
COUNTY ATTORNEY’S OFFICE

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| DISCUSSION | <p>The Chair recognized Mr. Tom Robertson to present.</p> <p>Mr. Tom Robertson, Assistant County Attorney, provided a presentation on the appeals process codified under Chapter 24 of the Code.</p> <p>Chapter 24-8 establishes the Environmental Quality Control Board (EQCB) which consists of 5 members holding PhD’s in various areas having to do with the environment and are appointed by Board of County Commissioners. They hear appeals, variance requests and request for extensions of time to comply with provisions of Chapter 24 or anything contained therein. EQCB decisions may be reviewed under Florida Rules of Appellate Procedure. They have the ability to overrule or change a determination of the Department director. Any violation, letter, or decision can be appealed to the EQCB. They cannot however vary the payment of fees or the requirements of needing a permit; however conditions and determinations made by the Department can be appealed.</p> <p>Discussion with members</p> |
| ACTION ITEMS | <ul style="list-style-type: none">• Inquiry follow-up made by Ms. Pena regarding the recent ordinance passed changing the definition of seasonal agriculture. |

PRESENTATION: ALICE PENA

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| DISCUSSION | <p>Task Force Member Alice Pena provided a presentation on the farming history and current situation in the 8.5 SMA (Las Palmas) and the continued encroachment into private lands using the mitigation designation.</p> |
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GENERAL TASK FORCE DISCUSSION

TASK FORCE MEMBERS

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| DISCUSSION | <p>Chair proposed extension of meeting to 4:30pm. Motion moved and passed by unanimous member vote.</p> |
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The Chair opened the public comment portion of the agenda at this time.

Pamela Evans, 2750 NE 183 Street, Apt #2310, Aventura, Florida 33160

"One thing I do want to say is, I really appreciate Patricia and Jose and Alice. This seems very bureaucratic, it's a very cold governmental organization and I think that it is extremely important to come across and let other people know, who may not know that there are ongoing cases. Not one or two cases and it hasn't been warm and fuzzy and these people haven't been contacted and really helped. I've talked to too many people myself, landowners, that haven't been helped and are still going bankrupted. So I would think, Miami-Dade County since they work for their citizens and are paid by taxpayer dollars would want to say, you know what, we really want to help these people keep their lives. Not go bankrupt, not go homeless and that's not what I'm hearing when I'm sitting here through this 4 hours and 5 hours last week, they're not going no, we're gonna try everything we can to pull this together and since it was Miami-Dade County's fault that this mulch went on these people's property and it really was, we're gonna work it out with them and we're gonna say you know what, if we have to pay for it ourselves and get it off their properties since its such a horrible, horrible thing, we will do it. Because meanwhile you all have these discussions, which is great because I know you are trying to get somewhere, these cases do remain unsolved and these people are going bankrupt and someone like Mr. Chapman, you know since it wasn't his fault, because Dade County did let it in, since there's only 2 ways to go in and there was 5500 loads and it took 8 months before they realized they did something wrong, say you know what, we are gonna stop the fines, we're gonna do whatever we have to do, if we have to come in there and help you smooth it out yourself. Because the other thing is, like we said last week, it's selective enforcement. There's places right near him and I'm not gonna name the properties, if you really want to know, you can find out, that it wasn't enforced and they have the same mulch on their property that he has and magically he's getting accosted and they're not. That's one subject.

DISCUSSION

Also, I want you to know that when Alice says that there was farming there for a long time, I'm actually gonna send you all a link like I send you other information, I'm not sure if all of you went through it. There was a 1999 congressional hearing, there was some excellent information from an ex army corps of engineer who said that this area is getting steamrolled. That this never should of happened, this is agricultural, they were given the rights and that Miami-Dade County has been after them forever. I will send you all the congressional hearing, you can look at the page numbers and see that this has been going on for a long long time. In light of that, its amazing to me that everyone knows this, South Florida Water Management, all these different governmental organizations, that when people buy a piece a property and they get ok, they get all their permits, no one says to them, this has happened over and over again, you know what you better go see if it's a wetlands, you better go to DERM to see if you need a permit before you do anything. Because other people have lost everything, so you better go check it out in the 8.5, but no one ever tells them, so you got all these permits, then they do the work and DERM takes pictures, I've heard this story over and over again, then after they finish, then DERM comes and says now cease and desist and then like I said the other week, at the last hearing, that people have no more money and they tell them you must remove what you have done or put back what you've done or scrape it down another \$50,000 or \$100,000 dollars. That seems so ludicrous, I can't believe people in this room don't go, you know something's wrong with that process because nothing is going to end that cause its case by case, so how when this whole thing is done, when people buy property what's gonna change? Their gonna come get their agricultural permit, unless you say its totally exempt because its agricultural, that seems to make the most sense. The other question is, when you come to conclusions about this, what's gonna happen to the people that's in the middle of all this fines and fees and court cases? It should immediately go, you know what we are gonna grandfather you, everything is dropped because you know what, we want to keep you as a citizen that is healthy and has a life, who can feed their families and has a business. You know this is going to drag out, I think to January and February, I can't remember how many more hearings you have, but these are these people's lives right now, and if you're even thinking about making this happen, that you're going to exempt some of this, and the mulch is going to be okay, you should right now say, we are not gonna drag these people into court while we figure out what to do. Let me see if I have anything else, I will send you the link to the congressional hearing cause that's excellent excellent testimony from a few different people. Alice do you know about that hearing? Maybe or maybe not. The other thing I wanted to mention, when you said about the appeals process and they can appeal the determination. I know that in one case, lets say Mr. Diaz, when they did have to get a biologist independent of the government, it cost them \$18,000. You know some people don't have that kind of money, I don't have that kind of money to do that. So once they've done all this, you know maybe it should be up to the State or to whoever to pay for them to get an independent biologist because when you are going to go against the government, the State or the County, it gets very expensive. They've already spent all their money. To me that's something else when you say well just come and appeal the determination, that's something else you have to look at not everybody can afford that. Alina were you going to ask for the zoning? Ok, we'd also would suggest or ask request that you have a zoning official at the next meeting, the next hearing. Ok? Anybody? Yes, no?? ok, thank you very much."

Mr. Jose Fernandez

"I speak for more than a 1,000 families from 3 different communities. Whose constitutional rights have been violated by this parasitical agency called DERM. Property rights, civil rights, due process rights, people have been harassed, intimidated, coerced, my wife is a citizen of the United States who actually is in exile for persecution and don't start me, of the 11th judicial court because they have some of the judges bought ok and I go to the 11th judicial court and this is called Agenda 21 for all of you who doesn't know ok and we are tired of any agency of the government who doesn't have any constitutional power to be regulating our land. If you want my land, you either pay it or kill me. I only give you those two chances. My wife is going to come and I dare you to put her in jail and she's gonna come. She's not gonna be a political refugee anymore, she's not gonna be in fear. The judge put on my wife a \$316,000 fine. Only corrupted politicians have that kind of money. Besides they put her in contempt of court and they want to destroy the whole land and leave it like it is and keep us paying taxes and mortgage. How would you like for me to do that to your house? Don't use it, but keep paying it. You see you are gonna have to listen to me whether you like it or not because I'm not gonna get off your back and I demand and we the people demand that the department of DERM be totally dismantled and there is a lot of them, not this one because this is a new guy, a lot of them that need to be prosecuted for criminal actions against we the people and next meeting you better bring more chairs. Thank you."

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| | <p>Mr. Ed Chapman, 12375 SW 202 Avenue 33196</p> <p>"I'd like to see if I can get the US, the National Geodetic Vertical survey for 1999, 2000 and 2001 if I can, because since they put the levee around it, it has gotten progressively lower which I was surprised because I thought we were gonna be in a bath tub with the levee around us, but its actually going down. The level of my pond is, except for this last rain event, has been going down and down and down. That's all I've got."</p> <p>The Chair, seeing no other public commenters, closed the public comment portion of the agenda.</p> |
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SET AGENDA/POLL MEMBERS FOR NEXT MEETING

TASK FORCE MEMBERS

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| DISCUSSION | <p>Chair opened discussion for the next agenda and produced the following:</p> <ul style="list-style-type: none"> • Option 3 for agriculture as brought up by P. Baylora and discussed between members and staff • Interplay with CDMP and Building/Zoning Officials – elaboration on how it works – the CU question for agriculture • USACOE presentation – possible attendance with someone from the Park? • Fallowing times in agriculture – LaPradd and Scott • Start working on draft recommendations after the next meeting including comments/information collected from the public • Going forward having a matrix of existing policies/rules that will be affected by the recommendations that will be made by the Task Force to assess what impact it will have across the board • Presentation on outreach <p>Chair set, after unanimous vote from members present, the next meeting for November 30th @ 1pm at the present location.</p> |
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| MEETING ADJOURNED | 4:33pm |
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